

ORDINANCE #2019-1797

BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF LANDS FOR AFFORDABLE HOUSING PURPOSES IN AND BY THE BOROUGH OF BERNARDSVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY, APPROPRIATING \$800,000 THEREFOR (INCLUSIVE OF \$50,000 FOR SOFT COSTS) AND AUTHORIZING THE ISSUANCE OF \$761,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH APPROPRIATION.

WHEREAS, the Borough Council of the Borough of Bernardsville, New Jersey (the "Borough"), pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. (the "Fair Housing Act"), has adopted a housing element to provide for its fair share of low and moderate income housing; and

WHEREAS, the housing element contains an analysis demonstrating that it will provide a realistic opportunity for the provision of the fair share of low and moderate income housing; and

WHEREAS, the Borough has determined to provide for low and moderate income housing within the Borough and, as authorized by the provisions of the Fair Housing Act and in particular N.J.S.A. 52:27D-311(a), to utilize municipally generated funds to acquire lands that will be donated to a developer for purposes of constructing low and moderate income housing; and

WHEREAS, it has been determined by the Legislature of the State of New Jersey that the provision of low and moderate income housing is a public purpose and, as authorized by the provisions of the Fair Housing Act and in particular N.J.S.A. 52:27D-311(f), the Borough has determined to utilize public monies to make donations, grants or loans of public funds for the

provision of new housing for low and moderate income persons and, in particular, to utilize public funds to acquire lands that will be donated to a developer for purposes of constructing low and moderate income housing; and

WHEREAS, as required by the provisions of the Fair Housing Act and in particular N.J.S.A. 52:27D-311(f), the Borough hereby determines that any private advantage in connection with the foregoing is incidental;

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF BERNARDSVILLE, IN THE COUNTY OF SOMERSET, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The improvement described in Section 3 of this bond ordinance is hereby authorized as a general improvement to be made or acquired by the Borough of Bernardsville, New Jersey. For the said improvement or purpose stated in said Section 3, there is hereby appropriated the sum of \$800,000 (inclusive of \$50,000 for soft costs), said sum being inclusive of all appropriations heretofore made therefor and including the sum of \$39,000 as the down payment for said improvement or purpose required by law and now available therefor in the Affordable Housing Trust Fund of the Borough and including also any monies received or expected to be received by the Borough from the local, state or federal government or agencies thereof as grants-in-aid of financing said improvement or purpose.

Section 2. For the financing of said improvement or purpose and to meet the part of said \$800,000 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$761,000 pursuant to the Local Bond Law of New Jersey. In anticipation of the

issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in a principal amount not exceeding \$761,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

Section 3. (a) The improvement hereby authorized and purpose for the financing of which said obligations are to be issued is the acquisition of lands in and by the Borough and located at 210 North Finley Avenue and identified as Lot 125 in Block 25 on the Official Tax Map of the Borough, said lands consisting of approximately one (1) acre, in order to donate said lands to a developer for purposes of constructing affordable housing consisting of approximately thirty (30) low and moderate income dwelling units, all pursuant to and in accordance with the Amended Final Judgment of Compliance and Repose entered in the matter of the Application of the Borough of Bernardsville, Superior Court of New Jersey, Law Division, Somerset County, at Doc #SOM-L-825-15 (Mt. Laurel) entered on December 17, 2018, and all as authorized by the provisions of the Fair Housing Act and in particular N.J.S.A. 52:27D-311.

(b) The estimated maximum amount of bonds or notes to be issued for said purpose is \$761,000.

(c) The estimated cost of said purpose is \$800,000 (inclusive of \$50,000 for soft costs), the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor being the amount of the said \$39,000 down payment for said purpose.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purpose described in Section 3 of this bond ordinance is not a current expense and is a property or improvement which the Borough may lawfully acquire or make as a general improvement, and no part of the cost thereof has been or shall be specially

assessed on property specially benefitted thereby.

(b) The period of usefulness of said purpose within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is forty (40) years.

(c) The supplemental debt statement required by said Local Bond Law has been duly made and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Borough as defined in said Local Bond Law is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$761,000, and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$50,000 for interest on said obligations, costs of issuing said obligations and other items of expense listed in and permitted under section 40A:2-20 of said Local Bond Law may be included as part of the cost of said improvement and is included in the foregoing estimate thereof.

Section 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer, provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the

provisions of N.J.S.A. §40A:2-8. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale at not less than par and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the dates of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body of the Borough at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

Section 6. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this bond ordinance. Said obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitation of rate or amount.

Section 7. The capital budget or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith and the resolutions promulgated by the Local Finance Board showing all detail of the amended capital budget or temporary capital budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Borough Clerk and are available for public inspection.

Section 8. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by said Local Bond Law.